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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 42 OF 2007
IN
CRIMINAL APPEAL NO. 650 OF 2006

Shri Vikram Dashrath Shekhavat ... Applicant (Ori.Accd.No.1)

V/s

The State of Maharashtra ... Respondent

Mr. Subodh Desai for the applicant accused No.1.

Mr. P.A. Pol, A.P.P. for the respondent State.

CORAM: D. G. DESHPANDE &
SMT. NISHITA MHATRE, JJ.

DATED: 10TH APRIL, 2007.

P.C.:

1. Heard Mr. Desai for the accused and the learned A.P.P. for the respondent State.

2. This application is filed by the applicant accused No.1 for bail. He is convicted under Section 302 read with 34 of the Indian Penal Code alongwith others.

3. According to the case of the prosecution, when the deceased was chitchatting with his family members in front of his house, the accused came and assaulted some

other witnesses and when people gathered he started running and while running he took out a "gupti" and gave stab on the abdomen of the deceased. Since the Trial Court found that evidence of the two eye witnesses was consistent, the accused came to be convicted as above.

4. Mr. Desai, advocate for the accused points out that the story of the prosecution that this accused inflicted a blow of "gupti" on the person of accused cannot be believed because of the medical evidence given by PW-7 Dr. Vivek who has performed post-mortem on the body of the deceased Sainath Shivalkar and who, in the cross-examination, has stated that the injury noted by him in the post-mortem report is possible by a knife because the injury was having sharp edge at one side and other side having serrated shape.

5. The "gupti" which is allegedly recovered from the present accused No.1 under Section 27 of the Evidence Act, is described in the panchanama Exh.60 as having 11.5 inches length, sharp on both edges and pointed from both the ends. Whereas the spot panchanama of the spot from where the knife was recovered is Exh.49. The spot panchanama shows that the knife that was recovered from the spot was having sharp edge on one side and other side of the knife was serrated.

6. We, therefore, agree with the advocate for the accused that this description in the prosecution case and in the evidence on record entitles the applicant to bail.

7. Hence the following order:-

O R D E R

(i) Application is allowed.

(ii) Applicant accused be released on bail bond of Rs.15,000/- with one or two sureties in the like amount.

(iii) The accused will attend the concerned police station once in two months in the first week.

(iv) Fine, if any, to be paid by the applicant accused No.1 before his release on bail.

8. Application disposed of.

(D.G. DESHPANDE, J.)

(SMT. NISHITA N. MHATRE, J.)